

House Bill 35

By: Representatives Benton of the 31st, Teilhet of the 40th, Collins of the 27th, England of the 108th, Kaiser of the 59th, and others

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other trade practices, so as to define certain terms; to provide that a person may request a security freeze on his or her credit report; to provide for procedures; to provide for the imposition of a security freeze on a consumer's records by a consumer credit reporting agency; to provide for requirements for consumer credit reporting agencies relative to implementing such security freeze; to provide for a temporary or specific lifting of such freeze; to provide for the lifting of such security freeze under certain conditions; to provide for applicability; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other trade practices, is amended by inserting at the end thereof a new article to read as follows:

"ARTICLE 35

10-1-930.

As used in this article, the term:

(1) 'Consumer credit report' means a report assembled, evaluated, or maintained by a consumer credit reporting agency which bears on a consumer's creditworthiness, credit standing, or credit capacity.

(2) 'Consumer credit reporting agency' means an entity that regularly engages in the practice of furnishing consumer credit reports to third parties bearing on a consumer's creditworthiness, credit standing, or credit capacity by assembling or evaluating and maintaining public record information and credit account information from persons who furnish that information regularly and in the ordinary course of business.

1 10-1-931.

2 (a) Any person may request that a security freeze be placed on his or her consumer credit
3 report by sending a request in writing by certified mail or by overnight mail to a consumer
4 credit reporting agency at an address designated by the consumer credit reporting agency to
5 receive such requests.

6 (b) A security freeze imposed pursuant to subsection (a) of this Code section shall remain
7 in effect until the consumer requests that the security freeze be removed as provided in Code
8 Section 10-1-935.

9 10-1-932.

10 (a) Within three business days after receipt of a request for a security freeze as provided
11 in Code Section 10-1-931, a consumer credit reporting agency shall place a security freeze
12 on all the records relating to the requesting consumer. Thereafter, the consumer credit
13 reporting agency shall not disclose any information relating to the consumer's records
14 except as otherwise expressly provided in this article; provided, however, that the agency may
15 disclose the fact that a freeze has been implemented on such person's records.

16 (b) Upon receipt of a request for a security freeze pursuant to Code Section 10-1-931, the
17 consumer credit reporting agency shall, within five business days of placing the freeze:

18 (1) Send a written confirmation of the placement of a security freeze to the consumer;

19 (2) Inform the consumer in writing of the process of placing the freeze, removing the
20 freeze, and allowing access to information from such consumer credit report for a specific
21 party or a specific period of time while the freeze is in place;

22 (3) Provide the consumer with a unique personal identification number, password, or other
23 device to be used by the consumer when providing authorization for the release of his or
24 her consumer credit report for a specific party or a specific period of time or when
25 permanently removing the freeze; and

26 (4) Provide the consumer with the secure electronic contact method established pursuant
27 to Code Section 10-1-938.

28 (c) A consumer credit reporting agency may charge a consumer a fee not to exceed \$5.00
29 for the placement, removal, or temporary lift of a freeze or for the issuance or replacement
30 of a personal identification number or password; provided, however, that no consumer credit
31 reporting agency shall charge a fee to a victim of identity theft who has submitted a copy of
32 a signed 'ID Theft Affidavit' designed by the Federal Trade Commission or a valid police
33 report filed with a local law enforcement agency.

10-1-933.

If a security freeze is in place, a consumer credit reporting agency shall not change the consumer's name, date of birth, social security number, or address in a consumer credit report unless a written confirmation of the change has been mailed to the consumer within 30 days prior to the change being posted. In the case of an address change, the written confirmation shall be sent to both the new address and the former address. Such written confirmation is not required for technical modifications of the official information of or relating to such consumer, including name and street abbreviations, complete spellings, or transposition of numbers or letters.

10-1-934.

(a) A consumer may request that his or her consumer credit report be accessed for a specific party or a specific period of time while a freeze is in place. Any such request shall be made by certified mail or through the secure electronic contact method established pursuant to Code Section 10-1-938, shall include the unique personal identification number or password provided by the consumer credit reporting agency pursuant to Code Section 10-1-932, and shall be accompanied by any applicable fee.

(b) A consumer credit reporting agency shall comply with a request from a consumer temporarily to lift a freeze on a consumer credit report upon compliance with subsection (a) of this Code section as follows:

(1) For any request received prior to January 1, 2008, compliance shall be within five business days after receipt of the request;

(2) For any request received between January 1, 2008, and January 1, 2009, compliance shall be within two business days after receipt of the request; and

(3) For any request received on or after January 1, 2009, compliance shall be not later than the close of the business day following the day on which the request was received.

10-1-935.

(a) A consumer may request that the security freeze be removed from his or her consumer credit report. Any such request shall be made by certified mail or through the secure electronic contact method established pursuant to Code Section 10-1-938, shall include the unique personal identification number or password provided by the consumer credit reporting agency pursuant to Code Section 10-1-932, and shall be accompanied by any applicable fee.

(b) A consumer credit reporting agency shall remove a security freeze within three business days of receiving a request for removal and compliance with the provisions of subsection (a) of this Code section.

10-1-936.

1 A consumer credit reporting agency may remove or temporarily lift a freeze placed on the
2 consumer credit report of or relating to a consumer only:

3 (1) Upon consumer request, pursuant to Code Section 10-1-934 or 10-1-935; or

4 (2) If the consumer credit report of or relating to such consumer was frozen due to a
5 material misrepresentation of fact by the consumer. If a consumer credit reporting agency
6 intends to remove a freeze upon a consumer credit report pursuant to this paragraph, the
7 consumer credit reporting agency shall notify the consumer in writing 30 days prior to
8 removing the freeze on such consumer credit report.

9 10-1-937.

10 If a third party requests access to a consumer credit report on which a security freeze is in
11 effect and the consumer does not allow his or her consumer credit report to be accessed, the
12 third party may treat the application as incomplete.

13 10-1-938.

14 No later than January 1, 2008, any consumer credit reporting agency doing business in this
15 state shall select and develop a secure electronic contact method, which may include the use
16 of telephone, facsimile, the Internet, or other secure electronic means, by which to receive
17 and process requests from consumers to remove or to lift temporarily a freeze on a
18 consumer credit report pursuant to Code Sections 10-1-934 and 10-1-935.

19 10-1-939.

20 The following entities shall not be required to place a security freeze on a consumer credit
21 report:

22 (1) A consumer credit reporting agency that acts only as a reseller of credit information
23 by assembling and merging information contained in the data base of another consumer
24 credit reporting agency or multiple consumer credit reporting agencies and does not
25 maintain a permanent data base of credit information from which new consumer credit
26 reports are produced; provided, however, that any such agency shall honor any security
27 freeze placed on a consumer credit report by another consumer credit reporting agency;

28 (2) A check services or fraud prevention services company which issues reports on
29 incidents of fraud or authorizations for the purpose of approving or processing negotiable
30 instruments, electronic funds transfers, or similar methods of payments; or

31 (3) A deposit account information service company which issues reports regarding
32 account closures due to fraud, substantial overdrafts, automated teller machine abuse, or
33 similar negative information regarding a consumer to inquiring banks or other financial

institutions for use only in reviewing a consumer request for a deposit account at the inquiring bank or financial institution.

10-1-940.

The provisions of this article shall not apply to the use of a consumer credit report by any of the following:

(1) A person or entity, or a subsidiary, affiliate, or agent of that person or entity, or an assignee of a financial obligation owing by the consumer to that person or entity, or a prospective assignee of a financial obligation owing by the consumer to that person or entity in conjunction with the proposed purchase of the financial obligation, with which the consumer has or had prior to assignment an account or contract, including a demand deposit account, or to whom the consumer issued a negotiable instrument, for the purposes of reviewing the account or collecting the financial obligation owing for the account, contract, or negotiable instrument. For purposes of this paragraph, 'reviewing the account' includes activities related to account maintenance, monitoring, credit line increases, and account upgrades and enhancements;

(2) A subsidiary, affiliate, agent, assignee, or prospective assignee of a person to whom the consumer has authorized access to credit information pursuant to Code Section 10-1-934 for purposes of facilitating the extension of credit or other permissible use;

(3) Any state or local agency, law enforcement agency, court, private collection agency, or person acting pursuant to a court order, warrant, or subpoena;

(4) A child support agency acting pursuant to Title IV, Part D of the federal Social Security Act, 42 U.S.C. Section 651, et seq.;

(5) The state or its political subdivisions or its agents or assigns acting to investigate fraud, acting to investigate or collect delinquent taxes or unpaid court orders, or acting to fulfill any of its other statutory responsibilities provided such responsibilities are consistent with a permissible purpose under 15 U.S.C. Section 1681b;

(6) The use of credit information for the purposes of prescreening as provided for by the federal Fair Credit Reporting Act, 15 U.S.C. Section 1681;

(7) Any person or entity administering a credit file monitoring subscription or similar service to which the consumer has subscribed; or

(8) Any person or entity for the purpose of providing a consumer with a copy of his or her consumer credit report or score upon the request of such consumer."

SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.